



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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OFFICE OF THE  
REGIONAL  
ADMINISTRATOR

IV-68-

MAR 23 2012

The Honorable Nathan Small  
Chairman of the Shoshone-Bannock Tribes  
Fort Hall Tribal Business Council  
P.O. Box 306, Pima Drive  
Fort Hall, Idaho 83203

Dear Chairman Small:

The purpose of this letter is to formally offer Shoshone-Bannock Tribes the opportunity to consult on a government to government basis with me, as Regional Administrator for Environmental Protection Agency Region 10, on an upcoming action on the FMC Operable Unit of the Eastern Michaud Flats Superfund site. In addition, I would like to confirm our desire to consult with the Shoshone-Bannock Tribes Fort Hall Business Council on our upcoming action regarding Water Quality Standards for the State of Idaho. These consultations will provide an opportunity to discuss these two upcoming actions and obtain your input prior to the EPA making its final decisions. It is my understanding that we have agreed on April 12, 2012, as the mutually acceptable date for government to government consultation on these matters. For your consideration, enclosed is a draft agenda to help guide these discussions.

With respect to the FMC Operable Unit of the Eastern Michaud Flats Superfund site, topics to be consulted on will include the upcoming interim Record of Decision Amendment and an update on progress related to the independent review of soil treatment technologies. The EPA has had extensive communications and involvement from tribal representatives on the cleanup plan for the FMC Operable Unit up to this point. This involvement includes a facilitated discussion related to the Shoshone-Bannock concerns on January 26 and 27, 2010, a government to government consultation on August 25, 2010, and a meeting with Tribal Council on October 11, 2011, just prior to the public hearing regarding the EPA's Proposed Plan for the FMC Operable Unit. The Tribes also submitted extensive comments on the EPA's September 26, 2011 Proposed Plan. A *draft* response to these comments, as well as all the comments the EPA received on the Proposed Plan, has been sent to you under separate cover. These responses, which are still undergoing agency review, will be attached in final form to the interim Record of Decision Amendment. As my staff transmitted to your staff through electronic mail, Kevin Rochlin has recently been appointed as the project manager for the FMC and Off-Plant portions of the Eastern Michaud Flats site and he is the point of contact for the FMC OU interim ROD Amendment. Also, for your information, I will be meeting with local elected officials and staffers for Idaho's Congressional delegation on April 13, 2012, to provide them on an update related to the EPA's activities at the FMC Operable Unit.

As a demonstration of my personal commitment to the independent review of soil treatment technologies for the FMC Operable Unit, I have appointed Jon Schweiss to lead these efforts for the EPA. Jon works directly for me as a senior advisor. It is my understanding that productive discussions

related to scoping the independent review are underway. I look forward to discussing these matters further with you and the rest of the Tribal Council during the consultation.

With respect to the revised human health criteria for toxic pollutants contained in Idaho's Water Quality Standards, the EPA is required to make a decision as to whether Idaho's revisions are consistent with the Clean Water Act. On November 22, 2011, the EPA sent you a letter offering government-to-government consultation on this upcoming action. On December 16, 2011, the EPA received an email from your staff requesting such consultation. On January 16, 2011, I met with several of your staff in Boise, Idaho to discuss this upcoming action. In addition, my staff have had several discussions with your staff to inform them about the options under consideration by the EPA and to listen to their concerns. At the April 12, 2012, government to government consultation, I would like to provide you with some general comments on this action and hear the thoughts, concerns, and recommendations that you and the Shoshone-Bannock Tribes Fort Hall Business Council have regarding this upcoming action so that I can take them into full consideration in the EPA's final decision. Mary Lou Soscia is the EPA's contact for coordinating Tribal comments on the upcoming water quality action.

The EPA appreciates this opportunity and looks forward to participating in this government to government consultation with the Shoshone-Bannock Tribes Fort Hall Business Council. Consultation, as the EPA in Region 10 use the term, means "the process of seeking, discussing, and considering the views of federally recognized tribal governments in a respectful, meaningful two-way communication that works toward consensus reflecting the concerns of the potentially affected federally recognized tribes before EPA makes its final decision or moves forward with its action."

Please feel free to contact me at (206) 553-1234 if you have any questions or concerns regarding the proposed consultation topics. Please have Bill Bacon contact James Zokan at (208) 378-5691 to confirm the schedule and agenda by April 2, 2012, so my staff and I may make final arrangements.

I look forward to meeting with you on these important matters.

Sincerely,



Dennis J. McLerran *DM*  
Regional Administrator

Enclosure

cc: Mr. Bill Bacon  
Shoshone-Bannock Tribes

Mr. Kelly Wright  
Shoshone-Bannock Tribes

Ms. Elese Teton  
Shoshone-Bannock Tribes